

COCHIN LEGISLATIVE COUNCIL PROCEEDINGS

OFFICIAL REPORT OF THE BUDGET SESSION, 1117

Thursday, the 30th July 1942
14th Karkadagam 1117

The Council met in the Council Hall, Ernakulam, at eleven of the clock with the Hon'ble President (A. F. W. DIXON Esq., C.I.E., I.C.S.), in the Chair.
Messrs. L. M. Pylee and H. J. Walmesley were absent.

QUESTIONS AND ANSWERS

WORKING OF THE PANCHAYAT COURTS—IMPROVEMENT OF—COMMITTEE REGARDING

21. **Mr. A. V. Moothedan (Chalakkudi)**: Will Government be pleased to state.—

- (a) whether a Committee was appointed by Government to suggest ways and means to improve the working of the Panchayat Courts in the State;
- (b) if so, what is the date of appointment of the Committee;
- (c) has the Committee submitted its report;
- (d) if so, what are their main recommendations?

Mr. T. K. Nayar (Minister for Rural Development):

- (a) Yes.
- (b) 25th September 1941.
- (c) Yes.

(d) The Committee's report has been published in the Gazette, dated 11th July 1942.
*A copy of it is placed on the Council table for reference.

Mr. V. K. Bhaskara Menon (Cranganur): When was the report received in the office?

Mr. T. K. Nayar (Minister for Rural Development): On the 14th of March.

POPULATION OF CERTAIN VILLAGES—1941 CENSUS

22. **Mr. A. V. Moothedan (Chalakkudi)**: Will Government be pleased to state (a) the population of the following villages according to the 1941 census.—

- (a) (i) Melur village;
- (ii) Muringur Vadakkummuri village;
- (iii) Kallur Vadakkummuri village;
- (b) what is the area of each of the above villages?

Rama Varmha Tampuran (Secretary to Government):

- | | |
|------------------------------------|-------------|
| (a) (i) Melur village | 8,564 |
| (ii) Muringur Vadakkummuri village | 1,819 |
| (iii) Kallur Vadakkummuri village | 9,182 |
| (b) (i) Melur village | 5,009 acres |
| (ii) Muringur Vadakkummuri village | 689 do. |
| (iii) Kallur Vadakkummuri village | 4,358 do. |

PERSONAL ASSISTANT TO THE WAR PUBLICITY OFFICER—APPOINTMENT OF

23. **Mr. V. K. Bhaskara Menon (Cranganur)**: Will Government kindly state whether they intend creating the post of a personal assistant to the War Publicity Officer?

Rama Varmha Tampuran (Secretary to Government): No.

STRENGTH OF THE WAR SECTION STAFF OF THE SECRETARIAT AS COMPARED WITH OTHER DEPARTMENTS

24. **Mr. V. K. Bhaskara Menon (Cranganur)**: Will Government kindly state the strength of the staff of the War section of the Huzur Secretariat, and the comparative figures of the other sections in the same office?

*Appendix I.

APPENDIX I

(Please see Answer to Question No. 21)

Office of the Panchayat Courts
Enquiry Committee,
Trichur,
10th March 1942.
27th Kumbham 1117.

From

The Panchayat Courts Enquiry Committee,
Trichur.

To

The Secretary to Government,
Development Department,
Ernakulam.

Sir,

Subject.—Working of Panchayat Courts—Report on.*Reference.*—Government Proceedings D4-25942/1116, dated 25th September 1941.

We, the members of the Committee constituted by Government Proceedings D-4-25942/16, dated 25th September 1941, to inquire into the working of the Panchayat Courts, have the honour to submit the following report.—

2. The necessity for the constitution of the Committee arose from the discussion in the Budget Session of the Legislative Council in 1116 when the working of the Panchayat Courts was subjected to severe criticism and it was found difficult to crystallise opinion as to the changes necessary to ensure the better working of the Panchayat Courts. Government thought it advisable to constitute a Committee of officials and non-officials for the purpose and submit a report for the consideration of Government. The personnel of the Committee was as follows.—

- (1) Rao Sahib C. V. Antony (President)
- (2) Advocate General
- (3) Mr. T. K. Nayar
- (4) Mr. M. K. Devassy
- (5) Mr. P. Govinda Menon.

3. Of these members Mr. T. K. Nayar resigned after attending four meetings of the committee consequent on his assuming charge as the Hon'ble Minister for Rural Development.

4. The Committee met on five occasions at Trichur. To elicit necessary information it was deemed advisable by the Committee to prepare and issue a questionnaire as also to inspect some at least of the Panchayat Courts in order to acquaint ourselves with the actual working of these Courts. The questionnaire appended as Schedule I to this Report was accordingly prepared both in English and Malayalam and published in the Cochin Government Gazette dated 1st November 1941. Copies of the same were also sent to persons and institutions who are in a position to give competent opinion on the subject. The President and Mr. M. K. Devassy inspected the Panchayat Courts of Kcdakara, Peringottukara, Choondal and Enamavu. The President has also inspected the Velur Panchayat Court. The adequacy of the response to the questionnaire (as many as 144 replies have been received) evidences the keen interest displayed by the public on this question. The replies to the questionnaire contain very useful and constructive suggestions and the Committee feel grateful to the persons who have replied to the questionnaire for their valuable opinions.

5. After a careful scrutiny of the representations contained in the various answers to the questionnaire and a consideration of the information gathered during the inspection of some of the Panchayat Courts, the Committee feel no hesitation in recommending the continuance of the Panchayat Courts as they afford a convenient means for the villager to secure rough and ready justice at a comparatively lesser cost than would otherwise be the case. The bulk of the opinions received strongly support this conclusion and the extreme view for the abolition of these Courts held by a negligible minority is founded on the present unsatisfactory working of some of the Courts. The Committee feel that no case has been made out for the total abolition of the Panchayat Courts though very strong reasons exist for overhauling the constitution and working of these Courts. It is hoped that with the removal of the root causes of the complaints raised against the Panchayat Courts, the view adopted by the Committee will be acceptable even to those who have advocated the total abolition of the Panchayat Courts.

6. There is strong evidence to substantiate the complaint that there is inordinate delay in the disposal of cases in some of the Panchayat Courts. The main reasons for the delay are no

doubt avoidable. Want of the requisite quorum of Judges, late attendance of Judges, absence of the President or the Senior Judge without whose presence no valid constitution of the Bench is permissible even if there is the requisite quorum, frequent adjournments of cases on inadequate grounds, unsystematic postings of cases resulting in congestion of work on certain days, the long delay in writing out judgments and in securing the signatures of the judges, the delay caused in the return of records taken to the District Munsiffs for inspection, incompetence of some of the Judges to grasp the essential points for decision, adjournments made as a matter of course for framing of issues, filing of written statements, arguments, etc., and the delay in the election of judges on the expiry of the term of the former judges by efflux of time—these in brief cause an unjustifiable and long pendency of cases thereby defeating the very purpose for which these local courts have been constituted.

7. The Committee are satisfied that an impartial, unbiased and efficient administration of justice can best be achieved by nomination of the judges. It is not enough for judges to be unbiased and impartial. The public must also feel that they are securing proper justice. The Committee have been able to gather that there is a widespread feeling entertained by the litigant public, rightly or wrongly, that the administration of justice by the Panchayat courts is vitiated by party factions arising from Panchayat elections. The Committee strongly feel that the system of election has to be done away with to place the Panchayat Courts above suspicion and to inspire confidence in the litigant public about the impartiality of these tribunals. It will also enhance the efficiency of these Courts thereby removing most of the defects that now exist.

8. The Committee are of opinion that the following proposals may be adopted to ensure a proper working of the Panchayat Courts.

1. Courts.—(a) The Panchayat Courts may be separated from the Panchayats as such and constituted as Village Courts affiliated and subordinated to the control and superintendence of the regular Judicial Department of the State. The Director of Public Health and Panchayats should have no manner of control over the Courts.

(b) Each Court shall consist of five judges who are to be nominated by a Board consisting of the Diwan Peishkar and two non-official one from the Southern and the other from the Northern Districts of the State. There is no objection to nominate or renominate a Panchayatdar as Judge.

(c) The term of the Judges shall ordinarily be three years from the date of nomination; but they shall continue in office till those nominated afresh actually assume their offices.

(d) Any Judge who fails to attend three consecutive sittings of the Court without the previous sanction of the President shall be removed from office by Government on the report of the President. The Government may also remove any Judge for corruption or misconduct.

(e) A bench of three judges shall hear and dispose of cases. The President shall decide beforehand the personnel of the Bench for particular days and cause intimation to be given to the Judges in time. Powers of supervision, postings of cases and adjustment of work of the Court shall be exercised by the President. The Bench which hears the argument must pronounce judgment in the case within seven days after the arguments are closed.

(f) The bare and ultimate grounds on which the decision in a case is based need alone be adverted to in the judgment and an elaborate and detailed discussion of the points raised and the evidence adduced in the case need not be indulged in as is now the practice. The grounds on which a witness is believed or disbelieved need not be mentioned in the judgment. A short judgment containing the findings on the questions of law and fact arising in the case is alone called for.

(g) The Court shall sit once a week between 11 a.m. and 5 p.m. The President shall have power to convene the Court for more days than one in a week but this power shall be exercised only very sparingly to cope with extra congestion of work.

(h) Cases may be posted for evidence as soon as written statements are filed. No issues need be framed and there need not be a separate hearing for filing of affidavits and documents.

(i) Evidence of the witnesses should be recorded in full.

(j) Every petition presented to the Court shall bear a court-fee label of one anna.

(k) A conveyance allowance of Re. 1 for every sitting may be granted to each Judge.

(l) The District Munsiffs should conduct personnel inspection of the Courts within their jurisdiction at least once a year and necessary provisions should be made by rules to enforce obedience to the instructions and directions issued by the District Munsiffs. The present practice of taking the records to the District Munsiffs for inspection should be put a stop to.

(m) Provisions should be made on the lines of the Civil Procedure Code investing Village Courts with jurisdiction to try suits against defendants residing in more than one jurisdiction.

II. Agents.—The system of appearance through agents need not be abolished. There may be cases where parties are unable to plead their cases or enter appearance in person. It is not fair to disallow representation of parties through their authorised agents. But it is considered advisable to restrict the right of representation to only licensed agents.

(ii) The licensing authority shall be the District Judge and a fee of Rs. 5 may be levied for the issue of each license.

(iii) A departmental examination may be conducted by Government on such subjects as are essential for an efficient discharge of the duties of an agent and the successful candidates alone are entitled to be licensed. Those who have been regularly acting as agents in any Panchayat Court for the past five years may be exempted from the departmental test and licenses may be issued to them on payment of the license fee and on production of a certificate from the President that he has practised for the requisite period.

(iv) The Village Court shall have power to report to the District Judge within whose jurisdiction the Court is situate for the cancellation of the license of an agent for misconduct and the decision of the District Judge shall be final.

(v) Fees payable to agents may be fixed at a maximum of annas eight in exparte cases and Rs. 3 in contested cases. This scale may be adopted in the award of costs between party and party.

III. Judgment-debtors.—Provision for release of judgment-debtors brought under arrest when the Court is not sitting should be made. When on a Court day any judgment-debtor is so brought, the Judge or Judges present may release the debtor even if there is no quorum for the sitting of the Court.

IV. Decree-debts.—The Presidents of the Panchayat Courts are now keeping the decree-debts realised in their personal custody and this system causes delay and inconvenience to the decree-holders to receive amounts due to them in the absence of the President. It is against wholesome principles to permit the retention of such moneys in the hands of the Judges. Arrangements must, therefore, be made to cause the deposit to of the amounts otherwise than with the Presidents in such manner as Government may deem proper regard being had to the considerations set forth above.

V. Staff.—This subject may at first sight appear to be beyond the scope of the reference to the Committee. But the Committee feel that for a proper working of the Village Courts a contended staff is highly essential and that therefore, they are justified in dealing with the lot of the staff. There are at present 31 clerks attached to Panchayat Courts who have passed the School Final Examination and are therefore qualified to be promoted to posts with higher grades of pay in the Judicial Department. Their pay at present is fixed and they have no prospects of promotion. This static condition is not conducive to an enthusiastic out-turn of work and is likely to lead to corruption and indifference. We therefore recommend that—

(i) they may be made eligible for promotion in the service of the Judicial Department.

(ii) that the 24 clerks now in service and who have not passed the School Final Examination may be granted a scale of pay and made eligible for pension and

(iii) that copyists now in service who are not School Finals may be made eligible for promotion as clerks in Village Courts.

9. The Committee are of opinion that a Village Courts Act may be enacted for implementing the recommendations set forth herein.

We have the honour to be,

Sir,

Your most obedient servants,

C. V. ANTONY (Chairman)

ADVOCATE-GENERAL

M. K. DEVASSY

P. GOVINDA MENON

(Signed)

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The Committee feel greatly indebted to the President for the comprehensive questionnaire prepared by him and for the collection of the summary of points arising from the answers received for a full and clear elucidation of all the aspects of the questions involved in the reference. The able and masterly way in which he guided the deliberations of the Committee with his sound and vast experience as one of the most-reputed judicial officers of the State have been of considerable help and guidance to the Committee in arriving at unanimous conclusions.

ADVOCATE-GENERAL (Signed)

M. K. DEVASSY

P. GOVINDA MENON